

9-21.000

WITNESS SECURITY

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9-21.010

Introduction

The purpose of this chapter is to provide information and guidance to Department of Justice (DOJ) attorneys with respect to the Witness Security Reform Act of 1984, Part F of Chapter XII of the Comprehensive Crime Control Act of 1984 (Pub.L. No. 98-473). This chapter contains regulations and provides general information about the Witness Security Program (the Program), and sets forth the procedures by which a government attorney may apply for the services of the Program in order to protect a witness against dangers that may be related to the witness's testimony. This chapter also provides information concerning the investigative use, or targeting, of persons who are in the custody of the United States Marshals Service (USMS) or the Bureau of Prisons (BOP), or who are under BOP supervision.

For information concerning the Emergency Witness Assistance Program see USAM 3-7.340, or contact any USAO Victim-Witness Coordinator or the Executive Office for United States Attorneys' LECC/Victim-Witness Office.

9-21.020 Scope

The procedures set forth *infra* apply to all organizations within DOJ and all organizations that use the Witness Security Program or use individuals in the custody of the USMS or BOP. The Office of Enforcement Operations (OEO), Criminal Division, is charged with overseeing both of these programs. The Witness Security Reform Act of 1984 (the Act) extends the authority of the Attorney General established as part of the Organized Crime Control Act of 1970 to provide protection and security by means of relocation for persons who are witnesses in official proceedings brought against persons involved in organized criminal activity or other serious offenses where it is determined that an offense described in Title 18, United States Code, Chapter 73 (obstruction of justice) or relating to a similar State or local offense involving a crime of violence directed at a witness is likely to occur. The Act also sets forth the authority by which the Attorney General may provide protective services to certain relatives and associates of protected witnesses. In this regard, 28 U.S.C. 524 authorizes the use of DOJ appropriations for the payment of "compensation and expenses of witnesses... at the rates authorized or approved by the Assistant Attorney General for Administration."

9-21.050 Utilization of Persons in Custody of BOP or USMS for Investigative Purposes, or as Targets of Investigative Activity

Requests to use, for investigative purposes, persons who are in the custody of the USMS or BOP, or who are under BOP supervision, or to target such individuals in covert investigations, must be submitted to OEO for review and prior approval. Such requests must first be approved by the designated official(s) at the agency's headquarters, and then submitted, in writing, by personnel at the agency's headquarters to the Chief, Special Operations Unit, OEO, Criminal Division, U.S. Department of Justice, P.O. Box 7600, Washington, D.C. 20044-7600.

As part of the review process, OEO coordinates with personnel at the headquarters of all appropriate agencies (BOP, USMS, investigative agencies). Upon approval or denial of the request, OEO advises the requesting agency's headquarters of the decision.

If there are exigent circumstances requiring an immediate response from OEO, oral requests for approval will be accepted from personnel at the agency's headquarters. However, confirmation of the request and appropriate supporting information must be submitted to OEO in writing as soon as possible after approval. This information will be held in the strictest confidence; no dissemination of the information will be made without prior approval from the appropriate personnel at the agency's headquarters.

Although it is not encouraged, if extraordinary circumstances warrant the investigative utilization of a person in the custody of the BOP or the USMS by a state or local law enforcement agency, OEO will consider that request. Such a request must be submitted in writing and endorsed by the United States Attorney for the district in which the investigative use is to occur, or where the charges will be brought, whichever is more appropriate.

In those situations in which OEO has approved the request, but the person whose release is being sought for investigative purposes is being held in the USMS or BOP custody *by order of a court*, the Assistant United States Attorney must obtain a court order authorizing the release from custody by the USMS or BOP to the approved investigative agency. Such order should be sealed by the court for the security of both the prisoner and the investigation. *No* court order shall be obtained transferring the custody of an individual from the USMS or BOP to an investigative agency without the prior approval of OEO.

In addition, any cases involving video surveillance and/or consensual monitoring must comply with USAM 9-7.000 (Electronic Surveillance).

NOTE: Federal *investigative* agencies are also required to seek the approval of OEO to use or target a BOP employee in an undercover capacity. See the Criminal Resource Manual at 704, for additional information about the use of BOP employees.

See the Criminal Resource Manual at 703, for a more detailed description of the information which must be submitted to OEO.

9-21.100 Eligibility For the Witness Security Program

A witness may be considered for acceptance into the Witness Security Program if they are an essential witness in a specific case of the following types:

- A. Any offense defined in Title 18, United States Code, Section 1961(1) (organized crime and racketeering);
- B. Any drug trafficking offense described in Title 21, United States Code;
- C. Any other serious Federal felony for which a witness may provide testimony that may subject the witness to retaliation by violence or threats of violence;
- D. Any State offense that is similar in nature to those set forth above; and
- E. Certain civil and administrative proceedings in which testimony given by a witness may place the safety of that witness in jeopardy.

In order to facilitate the processing of a request by a government attorney for a witness's acceptance into the Witness Security Program, OEO's Witness Security Unit has designed an application form that requests the specific information needed to support the request. This form requires a summarization of the testimony to be provided by the witness and other information evidencing the witness's cooperation, the threat to the witness, and any risk the witness may pose if relocated to a new community. Government attorneys may obtain application forms and instructions concerning a witness's entry into the Witness Security Program (the Program) from the:

Witness Security Unit
Office of Enforcement Operations, Criminal Division
U.S. Department of Justice
P.O. Box 7600
Washington, D.C. 20044-7600
or call OEO at (202) 514-3684.

Much of the above information is mandated by the Act, which requires the Attorney General to obtain and evaluate all available information regarding the suitability of a witness for inclusion in the Program. This information must include threats against the witness, the witness's criminal history, and a psychological evaluation for the witness and each adult member of the household (18 years and older) that will be entering the

Program. Additionally, the Attorney General is required to make a written assessment of the risk the witness and his/her adult family members may present to their new community. Factors which must be evaluated in the risk assessment include, but are not limited to, criminal record, alternatives other than Program protection which have been considered, and the possibility of securing the testimony from other sources. If it is determined that the need for prosecution of the case is outweighed by the danger that the witness or adult family members would pose to the relocation community, the Attorney General is required to exclude the witness from the Program.

Prior to Program authorization, witnesses will be required to make payment of any known debt for which there is a valid judgment, or make satisfactory arrangements to pay the debt; to satisfy all outstanding criminal and civil obligations (*e.g.*, fines, community service, restitution); to provide appropriate child custody documents; and to provide appropriate immigration documents, as necessary. In addition, as a condition of authorization into the Program, the Department may, at its discretion, notify local law enforcement of the presence of the witness in the community and his or her criminal history; mandate random drug or alcohol testing and/or substance abuse counseling; and set other conditions believed to be in the best interests of the Program.

To avoid any unnecessary delay in processing a Program application, government attorneys should note the following:

A. In order to make certain that each application for entry of a witness into the Program is both appropriate and timely, the witness should, prior to his/her acceptance into the Program, either appear and testify before the grand jury or in some other manner have committed himself/herself to providing testimony at trial. This requirement relates to the commitment of the witness to testify, and is intended to ensure that the witness's testimony is available at the time of trial. It is equally as important a requirement that the prosecutor intend to have the witness testify, and that the witness's testimony be significant and essential to the success of the prosecution.

B. The protection and relocation of witnesses and family members are expensive and complicated. In addition, DOJ is obligated to provide for the safety and welfare of a protected witness and family members long after the witness has testified. It is imperative, therefore, that the request for entry of a witness into the Program be made only after the sponsoring attorney has determined that the witness's testimony is significant and essential to the success of the prosecution, as well as credible and certain in coming.

9-21.110 Informants

The safety/security of an informant assisting in an investigation is the responsibility of the investigative agency utilizing the informant. An informant is only eligible for participation in the Witness Security Program if he/she is also a bona fide witness as defined in 18 U.S.C. 3521, *et seq.*

Please note that merely requiring an informant to testify with the intent that he or she might become eligible for the Program is not sufficient qualification. He or she must still meet the requirements of being a significant and essential witness.

9-21.130 Prisoner-Witnesses

Prisoners in a State or Federal institution are eligible for participation in the Witness Security Program provided all other criteria are met. If the prisoner is in State custody, the State must agree to the prisoner serving his/her sentence in the custody of BOP. The application should be made as prescribed for other witnesses; however, because there is no assessment of the risk to the public unless a witness is to be relocated in the community, there is also no need for a psychological evaluation nor an assessment of the risk to the public (normally submitted by the sponsoring attorney or investigative agency). No preliminary interview is conducted by the USMS until the prisoner is between six to nine months from release and is being considered for the full services of the Program - including relocation. If application is being made for the prisoner's family to be relocated while the prisoner is incarcerated, psychological evaluations and risk assessments are needed for all

adult family members, and it must be demonstrated that there is no alternative to placement of the family in the Program at that time.

9-21.140 State and Local Witnesses

The Witness Security Reform Act of 1984 authorizes the Attorney General to provide protection to State and local witnesses. If such a request is received, the State is asked to reimburse the United States for expenses incurred in providing protection, and to enter into an agreement in which the State agrees to cooperate with the Attorney General in carrying out the provisions of the Witness Security Reform Act. The terms of the reimbursement agreements will be determined by the USMS. If the State or local witness is under State or local supervision, the supervising agency must agree to transfer jurisdiction and supervision to Federal supervising authorities, prior to the witness's acceptance into the Witness Security Program.

Requests from State or local authorities should be directed to the appropriate United States Attorney and should contain all of the information normally required in a Federal witness's Witness Security Program application. The United States Attorney should review the application and furnish his/her recommendation to OEO for consideration.

9-21.200 Approval Authority

The Witness Security Reform Act provides that the Attorney General may delegate the authority to place individuals into the Witness Security Program to the Deputy Attorney General, the Associate Attorney General, the Assistant Attorneys General of the Criminal and Civil Rights Divisions, and one other person. By Attorney General Order No. 1072-84, the Attorney General has specially designated those individuals named above and the OEO Senior Associate Director to authorize applications for witnesses or prospective witnesses to be admitted into the Program. In the absence of the OEO Senior Associate Director, the OEO Director is authorized to exercise this authority.

9-21.220 Emergency Authorization

Protection of a witness for whom relocation is being requested remains the responsibility of the sponsoring investigative agency until such time as (1) OEO has reviewed the application and all other relevant information (including the results of the psychological examination), (2) OEO has approved admission of the witness into the Witness Security Program, and (3) the USMS has had the opportunity to arrange the safe removal of the witness and his/her family.

If it is determined that a witness is in imminent danger of harm and the investigative agency is not able to provide the necessary protection, emergency Program protection may be authorized by OEO and provided by the USMS before completion of the written risk assessment and all parties have entered into a Memorandum of Understanding. However, before this emergency protection can occur, the USMS must first conduct a preliminary interview (*see* USAM 9-21.300) to ensure that there are no obstacles to temporary relocation. The assessment and Memorandum of Understanding must be completed as soon as practicable following the authorization for emergency protection.

9-21.300 Requests for Preliminary Interviews

Upon receiving a Witness Security Program application, OEO will arrange for the USMS to interview the prospective witness as part of the application review process. Because of the need for this preliminary interview, it will be necessary for OEO to receive the application for the witness's participation in the Program as soon as

it is clear that the individual (1) is an essential witness, (2) is endangered, and (3) will need to enter the Program. This USMS's "Preliminary Interview" is designed to provide the witness with an overview of Program guidelines and the services that the witness can - and cannot - expect to receive. It will also ensure that all parties involved are aware of the issues which need to be resolved prior to Program authorization and relocation.

The USMS will coordinate the preliminary interview directly with the prosecutor or agent. The USMS requires that a copy of the application and threat assessment be provided to it prior to, or at the time of, the scheduled interview. Before providing a copy of the threat assessment, the agent should contact his or her headquarters Witness Security Program contact concerning any special instructions.

9-21.310 Representations and Promises

Investigative agents and government trial attorneys are *not* authorized to make representations to witnesses regarding funding, protection, or other Witness Security Program services, including admission into the Program. Representations or agreements, including those contained in plea agreements, concerning the Program are not authorized and will not be honored without specific authorization from OEO.

9-21.320 Expenses

Any expenses incurred by investigative agencies or divisions for witnesses and/or their dependents prior to authorization into the Witness Security Program and pickup by the USMS are the responsibility of the concerned agency or division.

9-21.330 Psychological Testing and Evaluation

Before authorizing any witness to enter the Witness Security Program, OEO will arrange for psychological testing and evaluation for each prospective witness and all adult (18 years of age and older) members of the witness's household that are also to be protected. This testing will, to the extent possible, determine if the individuals may present a danger to their relocation communities. Because the reports of the psychologists may contain information that is discoverable as potentially exculpatory *Brady* material in the criminal prosecution in which the witness is to testify, all materials submitted by the psychologists will be forwarded by OEO to the appropriate United States Attorney's Office (USAO) for review.

Before undergoing psychological evaluation, the witness must sign a release form authorizing the Department to use the results of the psychological evaluation to the extent necessary in connection with the witness's application for acceptance into the Program or for other lawful uses. The release form is contained in the Criminal Resource Manual at 710. It is the responsibility of the sponsoring prosecutor or agent to have the witness sign the form prior to the evaluation.

9-21.340 Polygraph Examinations for Prisoner-Witness Candidates

A polygraph examination is required of all Witness Security Program candidates who are incarcerated in order to maintain the security of those individuals who are now, or will be, housed in a BOP Protective Custody Unit. Authorization for the Program may be rescinded or denied if the results of the polygraph examination reflect that the candidate intends to harm or disclose other protected witnesses or disclose information obtained from such witnesses.

The prisoner-witness Program candidate will be expected to sign the polygraph examination form acknowledging voluntary submission to the examination. The witness's release form authorizes the Department to use the results of the polygraph examination to the extent necessary in connection with the witness's application

for acceptance into the Program or for other lawful uses. It will be the responsibility of the prosecutor/agent to advise the Witness Security candidate of this requirement prior to submitting the Program application to OEO. Depending on the location of the witness and other pertinent factors, the prosecutor/agent or BOP will be asked to disseminate the form to the prisoner. The Polygraph Examination Release Form is contained in the Criminal Resource Manual at 711. After an individual has been polygraphed, the examining authority will prepare and submit a report to OEO.

9-21.400 Procedures for Securing Protection

Requests for protection of witnesses must be made as soon as it is known that the Witness Security Program candidate will be a significant and essential witness and will need relocation. Because of security concerns regarding the witness and his/her family, a witness's pending or actual participation in the Program is *not* to be publicly disclosed without the prior authorization of OEO. It is incumbent upon each United States Attorney, Assistant United States Attorney, and the investigative agencies to present to OEO at the earliest possible time the request for authorization to place an individual in the Program. This will allow time for the USMS preliminary interview, psychological testing, appropriate review, and the actual preparation of assistance by the USMS and/or BOP, thereby minimizing the disruption both to the witness and the concerned government agencies.

United States Attorneys and Criminal Division Attorneys should transmit requests (applications) to OEO. Communications should be addressed to the Chief, "WSU," OEO, P.O. Box 7600, Washington, D.C. 20044-7600, or sent by fax to OEO at (202) 514-5143. (For security reasons, documents containing sensitive information are not to be e-mailed to OEO.) Program requests must be signed by the United States Attorney or, in the United States Attorney's absence and pursuant to 28 C.F.R. Sec. 0.131, the Acting United States Attorney. In cases being handled by the Criminal Division, the appropriate Division Section Chief/Office Director must sign the request. All other divisions, agencies, and entities applying for Program use must contact OEO for application information and directions.

For a list of the required information in these requests, see the Criminal Resource Manual at 701.

9-21.410 Illegal Aliens

Upon the submission of a Witness Security Program application for an illegal alien, the sponsoring attorney and/or investigative agency must obtain from the Immigration and Naturalization Service (INS) appropriate documents which authorize the prospective witness and family members to remain in the United States and facilitate relocation by the USMS out of the state in which they registered. Program candidates who are illegal aliens cannot be relocated by the USMS until all INS requirements are satisfied and necessary documents have been provided to OEO or the USMS. In cases where the INS procedure to legalize the alien's status may require a lengthy time period, the sponsor or agent should secure from INS a letter of intent to change the witness's status as part of the requirements for relocation under the Program. Excludable alien witnesses who do not need the protective services of the USMS, but who need to remain in the United States, should have their sponsoring government attorneys apply for S Visa classification (*see* USAM 9-72.000 S VISA Program) instead of seeking assistance from the Witness Security Program.

9-21.500 Responsibilities and Prerogatives of the United States Marshals Service

When it has been determined that a witness is a suitable candidate for the Witness Security Program, the witness and his/her adult family members that are to be protected will be asked to sign a Memorandum of

Understanding. The USMS is obligated to satisfy each commitment documented, as long as the witness remains in good standing in the Program, and the USMS will not be required to provide amenities or services not included in the document. The witness will likewise be obligated to satisfy his or her documented commitments.

The Criminal Resource Manual contains further information on this topic

Witness Services	Criminal Resource Manual at 705
Subsistence Guidelines	Criminal Resource Manual at 706
Employment of Protected Witnesses	Criminal Resource Manual at 707

9-21.600 Prisoner-Witnesses

A. Non-Program Cooperating Prisoners (not in, or to be placed in, the Witness Security Program). The prosecutor handling a case, whether an Assistant United States Attorney or a Division attorney, will be responsible for notifying the BOP regional office that has jurisdiction over the area in which a Federal prisoner is incarcerated and the warden of the institution in which the prisoner is incarcerated of the prisoner's cooperation with the government, and the names/descriptions of other prisoners from whom that person should be separated. If the prisoner is in state or local custody, notification should be made to the highest level official possible of the facility in which the prisoner is incarcerated, and, if it is a Federal prisoner in local custody, the United States Marshals Service and the Bureau of Prisons Community Corrections Manager in the prisoner's sentencing district.

The prosecutor must provide BOP the following information:

1. Name of offender;
2. Date of birth;
3. Race and Sex;
4. Whether State or Federal prisoner (if State, indicate whether reimbursable or non-reimbursable);
5. Current offense;
6. Current sentence (and judge's name);
7. FBI rap sheet;
8. Outstanding warrants or detainers;
9. Names of all those from whom witness should be separated, biographical data, FBI numbers, and current locations;
10. Pre-sentence investigation and/or prison classification material;
11. Judgment and Commitment papers; and
12. Bail bond status.

B. Witness Security Program Prisoner-Witnesses. As soon as the prisoner begins cooperating, if the prisoner is in BOP custody, the prosecutor or investigative agency will be responsible for notifying officials at the institution in which the witness is incarcerated of his/her security needs, to ensure that appropriate security precautions are taken prior to possible acceptance in the Program. This information should include the names of individuals and groups from which the prisoner should be separated and the level of danger to the witness. Any special requirements, such as being transported alone, should be communicated also. If the prisoner is in state or local custody, the prosecutor or investigative agency is responsible for making appropriate arrangements for the prisoner's security by contacting the highest level official at the institution in which the prisoner is incarcerated, and providing the information described above. If the prisoner is a Federal prisoner in local custody, the United States Marshals Service and the Bureau of Prisons Community Corrections Manager in the prisoner's

sentencing district should be advised as well. Once the Program application is submitted, OEO will notify BOP of the application, so that, if the prisoner is in BOP's custody, whatever additional security measures are necessary can be taken. OEO will consult with the prosecutor concerning whether the prisoner should be placed in administrative detention for security reasons, whether there is any objection to arranging the Program polygraph examination immediately, and whether there is any objection to arranging BOP's precommitment interview (similar to the USMS's preliminary interview).

1. BOP has advised that because of the extraordinary difficulty in determining the appropriate institution for the safe housing of a prisoner-witness, it is imperative that they be furnished the name, alias, DOB, FBI#, race, sex, ethnic origin, offense/charge and any other pertinent factors, such as state of appeal, fugitive escape, non-incarcerated, etc., on all persons who have been identified as posing a threat to the witness.

Compliance in providing this information is essential, regardless of whether the prisoner will be housed in a Protective Custody Unit (PCU) or in the general population of a Federal institution, as it will enable BOP to adequately monitor the separation needs of protected prisoner-witnesses.

The information must be provided to BOP at the time witness security is being requested for a prisoner-witness in accordance with the other provisions of this Chapter.

2. Requests to house prisoner-witnesses in a PCU must be directed to, and approved by, OEO.
3. Interviews of a prisoner-witness by prosecutors or agents must take place at the prisoner's designated institution, and must be arranged through OEO. Requests must be made at least five (5) working days in advance, and must include the purpose, date, and estimated duration of the interview, and name of contact person (if other than the requestor), as well as the name of each person (noting USAO/agency) to attend the interview.

9-21.700 Requests for Witness's Return to Danger Area for Court Appearances and Requests for Pre-Trial Conferences and Interviews

Requests for the appearance of a relocated witness for trial or pre-trial conferences and interviews in the case for which the witness entered the Witness Security Program should be made by the prosecutor to the Witness Security Inspector of the USMS in the prosecutor's area at least **ten (10) working days** in advance of the appearance date. Requests should include the following: purpose of appearance, date/time, place, estimated duration of appearance, and, if applicable, name of contact person (if other than the requestor). Investigative agents should make requests for interviews of a relocated witness for cases other than the Program case through authorized agency channels for approval by OEO. Requests should include purpose, date, and estimated duration of the appearance, and, if applicable, any other persons to be present in addition to the requestor. OEO will forward approved requests to the USMS or to BOP (whichever is appropriate).

Communications should be addressed to the Chief, "WSU," Office of Enforcement Operations, P.O. Box 7600, Washington, D.C. 20044-7600. In case of emergency, you may contact OEO by phone at (202) 514-3684. In order to conserve the USMS's personnel resources, emergency requests should be avoided.

Prosecutors and investigative agents will be requested to conduct conferences or interviews of relocated witnesses at neutral sites, or, for prisoner-witnesses, at the prisoner's assigned BOP facility, which will substantially reduce the personnel requirements of the USMS. The USMS will determine the location of all "neutral sites" for relocated witness interviews, and will advise the requestor directly.

It will be the responsibility of the prosecutor and the investigative agents to ensure that maximum use is made of the witness's appearance in the danger area. In the interests of security and limiting the expenses involved, the witness must be returned to the relocation area or designated facility as soon as practicable.

9-21.800 Use of Relocated Witnesses or Former Protected Witnesses as Informants

A witness, having entered the Witness Security Program, maintains an ongoing relationship with DOJ. Even after subsistence allowances and other support are terminated, the residual relationship requires that investigative agencies and attorneys observe certain restraints in dealing with these persons in connection with investigations and/or new cases.

The consent of OEO is required before any of the following persons may be used as an informant: a currently protected witness, anyone relocated because of a witness's cooperation, or a former protected witness.

The information that must be supplied to OEO for its use in evaluating requests to use anyone as an informant who has received protective services through the Program can be found in the Criminal Resource Manual at 702.

After a request for use of a witness currently in the Program has been granted, OEO requires that status reports be filed with it after the first 45 days of use, and, thereafter, quarterly during the length of such use. Status reports will not ordinarily be required for witnesses no longer in the Program. In addition to the above, any case involving the use of video surveillance and/or consensual monitoring must comply with the requirements of USAM 9-7.000 *et seq.*

9-21.910 Dual Payments Prohibited

The USMS is authorized to provide for the maintenance and housing of protected witnesses whenever they appear for trial, pre-trial conferences, or return to a danger area for other appearances approved by OEO. The USMS is authorized to pay for the costs of travel and other associated maintenance expenses. Attorneys should not prepare "Fact Witness Certificates," and Fact Witness fees and allowances should not be disbursed to protected witnesses who are under the protection and maintenance of the USMS. (Witnesses who voluntarily withdraw from participation in the Witness Security Program are exempt from this restriction.)

9-21.920 Payments of Reward Monies

OEO must be advised of the payment of any reward monies to Witness Security Program participants. The appropriate investigative agency headquarters must provide a written report of such payments reflecting the reason(s) for the payment and the fact that the prosecuting attorney has approved the payment. Payments to relocated witnesses must be sent to the Chief, Witness Security Program, Judicial Security Division, U.S. Marshals Service, 600 Army/Navy Drive, Arlington, Virginia 22202-4210. Payments to prisoners must be sent to the Assistant Administrator, Inmate Monitoring Section, Bureau of Prisons, 320 First Street, N.W., Room 524, Washington, D.C. 20534.

9-21.940 Special Handling

All documents relating to a protected witness or an individual nominated for protection will be accorded special handling to ensure disclosure on a strict "need to know" basis. All documents should be marked with the security designation "Sensitive Investigative Matter." All court matters discussing a Witness Security Program participant, i.e., prisoner litigation, child custody, etc., must be filed under seal.

9-21.950 Relocation Site

The area of relocation should be known only to the USMS, and must not be made known to the case attorney or agent, or their staffs. All contact with the witness should be made through OEO or the USMS Witness

Security Inspector as detailed in USAM 9-21.700. The witness should be instructed to keep secret the area of his/her relocation and all associated matters.

9-21.960 Duty Officers

Calls concerning a protected witness placed during non-business hours, weekends, and holidays should first be directed to the OEO duty officer through the Justice Command Center.

9-21.970 Other Requests

All requests for information related to any aspect of the Witness Security Program should be handled as follows:

- A. Requests by members of Congress or their staffs shall be forwarded to the DOJ Office of Legislative Affairs which, in turn, will refer the requests to OEO for processing;
- B. Requests by the news media or the public should be referred to the DOJ Office of Public Affairs;
- C. Other inquiries not covered herein should be referred directly to OEO.

9-21.990 Continuing Protection Responsibilities

Once a witness has been accepted into the Witness Security Program, even if the witness is no longer in the Program, he or she will receive protection in the courtroom for testimony in the case or cases for which the witness entered the Program. If the witness is no longer in the Program, but not living in an area considered to be dangerous to them, the USMS may also produce them for the testimony. If there is clear evidence that a witness who has had their participation in the Program terminated is in immediate jeopardy arising out of the former cooperation, through no fault of the witness, the need for further protective services will be evaluated, and provided, if appropriate.

9-21.1000 Arrests of Relocated Witnesses

See the Criminal Resource Manual at 709, for a discussion of this issue.

9-21.1010 Results of Witnesses' Testimony

OEO is responsible for the collection and maintenance of the results of the testimony provided by protected witnesses. Therefore, it is essential that prosecutors provide the following information to OEO as soon as it becomes available:

- A. Name of witness;
- B. Name of case;
- C. Jurisdiction;
- D. Did the witness testify before grand jury? Trial? If so, provide the dates. If the witness did not testify, explain why;
- E. Status of witness in case (defendant, unindicted co-conspirator, prisoner, victim, other);
- F. Names of all defendants;
- G. Statutory violations charged;
- H. Date of indictment;

- I. Date of conviction;
- J. Disposition of the case as to each defendant;
- K. If convictions, details of sentence imposed on each defendant, including fines levied, restitution, etc.;
- L. Any information as to significant forfeitures or seizures accomplished because of witness's assistance; and
- M. Any information as to contributions made by this witness to the overall law enforcement effort - Federal, State, and/or local, - in your district and elsewhere; for example, furnishing probable cause for Title III's, search warrants, locations of fugitives.

Without the cooperation of prosecutors in assembling this information, it is impossible to demonstrate, through statistics and anecdotal case information, that the Witness Security Program is vital to the successful prosecution of significant cases. Congress's interest is high in obtaining statistics relating to the effectiveness of the Program. This information is used by Congress to set the level of funding for and to determine the continued viability and long range existence of the Program.

9-21.1020 Victims Compensation Fund (18 U.S.C. 3525)

Pursuant to the provisions of 18 U.S.C. 3525, the Victims Compensation Fund has been established to compensate victims of certain crimes committed by participants in the Witness Security Program. In general, the fund will, up to a statutory limit, cover expenses for medical and/or funeral costs and lost wages that are not reimbursable from any other source. OEO has been delegated the authority to administer the operations of the fund and should be contacted if information about the fund and the payment of claims is needed.